

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Center for Consumer Information and Insurance Oversight  
200 Independence Avenue SW  
Washington, DC 20201



---

August 25, 2025

Cigna Healthcare of Texas, Inc. – Texas – HIOS ID #76589

David Szotak,  
Managing Counsel, Regulatory  
[David.szotak@evernorth.com](mailto:David.szotak@evernorth.com)

Re: Final Determination Letter – Mental Health Parity and Addiction Equity Act (MHPAEA)  
Non-Quantitative Treatment Limitation (NQTL) Comparative Analysis Review –  
Prescription drug benefits (formulary design)

Dear Mr. Szotak:

The Centers for Medicare & Medicaid Services (CMS), on behalf of the U.S. Department of Health and Human Services, has completed its review of the Corrective Action Plan (CAP) and additional comparative analysis submitted by Cigna Healthcare of Texas, Inc. (Issuer) to address the instances of non-compliance noted in the MHPAEA NQTL Analysis Review (Review).

The purpose of the Review was to assess the Issuer’s compliance with the following requirements under Title XXVII of the Public Health Service Act (PHS Act) and its implementing regulations:

Section 2726 of the PHS Act and implementing regulations at 45 C.F.R. §§ 146.136<sup>1</sup> and 147.160 - Parity In Mental Health And Substance Use Disorder Benefits (MHPAEA and its implementing regulations).

The Review covered prescription drug benefits (formulary design) for the 2023 plan year (hereinafter referred to as “the NQTL”).

CMS conducted this Review pursuant to section 2726(a)(8)(A) and (B) of the PHS Act, as added by section 203 of Title II of Division BB of the Consolidated Appropriations Act, 2021.<sup>2</sup> CMS contracted with Examination Resources, LLC to assist CMS with conducting this Review.

On April 24, 2025, CMS provided an Initial Determination Letter of non-compliance to the Issuer and directed the Issuer to submit a CAP and additional comparative analysis to CMS to

---

<sup>1</sup> In this document, references to 45 C.F.R. § 146.136 refer to the regulations applicable during the 2023 plan year.

<sup>2</sup> Pub. L. 116-260 (Dec. 27, 2020).

demonstrate compliance with MHPAEA and its implementing regulations. In CMS' Initial Determination Letter, CMS identified the following instances of non-compliance with section 2726 of the PHS Act, all of which have been addressed by the Issuer's corrective actions and additional comparative analysis.

**I. Failure to Provide Sufficient Information and Supporting Documentation, in Violation of section 2726(a)(8)(A) of the PHS Act.**

**1. Failure to provide sufficient information and supporting documentation pertaining to mental health and substance use disorder (MH/SUD) benefits and medical/surgical (M/S) benefits subject to the NQTL as written and in operation.**

In its October 27, 2023 supplemental submission, the Issuer provided its Evidence of Coverage (EOC), which indicated prescription drugs were a covered benefit.<sup>3</sup> The EOC also indicated that covered services include "treatment of abuse or addiction to alcohol and/or drugs including outpatient rehabilitation in an individual, family, group, partial hospitalization or intensive outpatient therapy."<sup>4</sup> However, the EOC noted a coverage exclusion for "[a]ny Drugs, medications, or other substances dispensed or administered in any outpatient setting."<sup>5</sup> CMS requested clarification on the MH/SUD prescription drug coverage and formulary exclusions referenced in the EOC.<sup>6</sup> The Issuer did not provide a response to that clarification request.<sup>7</sup>

In its June 6, 2025 CAP submission, the Issuer agreed that the EOC was unclear and confirmed that outpatient-administered drugs are covered as a medical benefit, not as a prescription drug benefit and provided the page numbers in the EOC where it was clarified.<sup>8</sup> The EOC was revised to clarify coverage details and filed with CMS under the System for Electronic Rates & Forms Filing (TX Consumer Choice EOC – SERFF # CCGH-134517482) on May 14, 2025.<sup>9</sup> CMS agrees that the Issuer's corrective action addressed the concern regarding this issue.

**2. Failure to provide sufficient information and supporting documentation for the evidentiary standards used to develop the factors considered in the design and application of the NQTL, as written and in operation, and any other sources or evidence relied upon to design and apply the NQTL as written and in operation.**

CMS requested the Issuer to explain how the sources "billing information" and "rebate contracts" are used to develop the factor "rebate arrangements exists for the drug to offset its cost."<sup>10</sup> In its October 27, 2023 supplemental submission, the Issuer explained that manufacturer rebates for similar drugs are evaluated in its formulary model to select the lowest net cost drugs, influencing formulary coverage, tier placement and utilization management edits.<sup>11</sup> CMS

---

<sup>3</sup> Attachment 5 Policy 1. tx-Cigna-simple-choice-2000, pg. 3.

<sup>4</sup> Attachment 5 Policy 1. tx-Cigna-simple-choice-2000, pg. 50.

<sup>5</sup> Attachment 5 Policy 1. tx-Cigna-simple-choice-2000, pg. 74.

<sup>6</sup> Cigna\_TX\_PY23\_Secundary Insufficient Data Request\_FD\_20241011, Request Item #1.B.1.

<sup>7</sup> Cigna\_TX\_PY23\_Secundary Insufficient Data Request\_FD, pgs. 3-4.

<sup>8</sup> Cigna Healthcare of Texas Inc. HIOS ID 76589 FD CMS Response 6.4.2025 PDF, pg. 1.

<sup>9</sup> TX IND HMO EOC 2026\_redline\_v5\_8\_25, pgs. 50 and 77.

<sup>10</sup> Cigna\_TX\_PY23\_Insufficient Data Request\_PD\_FD\_20231006\_Final, Request Item #3.F.1.

<sup>11</sup> Cigna\_TX\_PY23\_Insufficient Data Request\_PD\_FD\_20231006 - FINAL, pg. 13.

requested a copy of the formulary model used to determine the lowest net cost of drugs and an explanation of the differences in rebate arrangements and modeling between drugs used to treat MH/SUD conditions and drugs used to treat M/S conditions.<sup>12</sup> In its November 4, 2024 secondary supplemental submission, the Issuer provided limited data, lacking specifics on net cost determinations and rebate arrangements.<sup>13</sup>

In its June 6, 2025 CAP submission, the Issuer provided additional documentation detailing its formulary modeling process including inputs and calculations, indicating how rebates influence formulary coverage, tier placement, and utilization management edits for drugs used to treat MH/SUD conditions and drugs used to treat M/S conditions.<sup>14</sup> The Issuer affirmed that it does not apply rebates any differently or amend its modeling process whether a prescription drug is used to treat an M/S condition or a MH/SUD condition. All drugs are evaluated through the same formulary methodology. CMS agrees that the Issuer's corrective action addressed the concern regarding this issue.

CMS' findings detailed in this letter pertain only to the NQTL under review and do not bind CMS (or any other government agency or entity) in any subsequent or further review of other plan provisions or their application for compliance with governing law, including MHPAEA and its implementing regulations. If additional information is provided to CMS regarding this NQTL or Issuer, CMS reserves the right to conduct an additional review for compliance with MHPAEA or other applicable PHS Act requirements.<sup>15</sup>

CMS' findings pertain only to the specific plans to which the NQTL under review applies and are offered by the Issuer and do not apply to any other plan or issuer. However, these findings should be shared with affiliated entities, and steps should be taken as appropriate to ensure compliance with applicable requirements.

CMS will include a summary of the comparative analysis and the results of CMS' review in its annual report to Congress pursuant to section 2726(a)(8)(B)(iv) of the PHS Act.

Sincerely,

Mary M.  
Nugent -S

 Digitally signed by Mary M. Nugent -S  
Date: 2025.08.21 09:21:39 -04'00'

Mary Nugent  
Director, Division of Plan and Issuer Enforcement  
Oversight Group  
Center for Consumer Information and Insurance Oversight  
Centers for Medicare & Medicaid Services

cc: Texas Department of Insurance

---

<sup>12</sup> Cigna\_TX\_PY23\_Secondary Insufficient Data Request\_FD\_20241011, Request Item #3.E.

<sup>13</sup> Cigna\_TX\_PY23\_Secondary Insufficient Data Request\_FD, pg. 17.

<sup>14</sup> Pharmacy Formulary Design NQTL Comparative Analysis 6.3.25.

<sup>15</sup> See section 2726(a)(8)(B)(i) of the PHS Act. See also 45 C.F.R. § 150.303.